OBJECTORS' NOTICE OF OBJECTION, STATEMENT OF ISSUES AND LAWS, AND REQUESTED REMEDIES

NOTICE OF OBJECTION

March 1, 2015

Regional Forester
Objection Reviewing Officer
Pacific Northwest Region
USDA Forest Service
ATTN: 1570 Appeals and Objections
PO Box 3623
Portland, OR 97208-3623
Email: *objections-pnw-regional-office@fs.fed.us*

RE: League of Wilderness Defenders/Blue Mountains Biodiversity Project's objections to the Junction Vegetation Management Project

Dear Objection Reviewing Officer,

League of Wilderness Defenders/Blue Mountains Biodiversity Project (LOWD/BMBP) hereby formally submits the following objections to the Junction Vegetation Management Project EA. Under 36 CFR 218.5(a), LOWD/BMBP has secured the right to submit objections and thereby participate in the pre-decisional administrative review process for this project. LOWD/BMBP has submitted timely, written comments regarding this project at all periods in the process where public comments were specifically requested.

Decision Document
Junction Vegetation Management Project (Junction Project) Final Environmental Assessment and Draft Decision Notice

Date Decision published
February 4th, 2015

Responsible Official
John Allen, Forest Supervisor, Deschutes National Forest (DNF)

Description of the Project
The DNF has identified Alternative 3 as the chosen action alternative in the Draft Decision Notice. Therefore, this objection focuses on Alternative 3. Alternative 3 includes a total of about 3,307 acres of commercial thinning with associated noncommercial thinning and fuels treatments; 4,235 acres of overstory removal, 2,322

acres of "seed tree" (clearcut) or overstory creation logging, and 12,280 acres of non-commercial understory treatments which include pre-commercial thinning (4,213 acres), ladder fuels reduction (5,745 acres), and whip felling (2,322 acres). Additional fuels treatments including underburning (5,738 acres), mowing (7,911 acres), slash treatments (12,928 acres), roadside fuel breaks (1,762 acres), and possible biomass removal (12,928 acres) occur throughout different acreages of the project area. An estimated 18 mmbf of timber will be harvested.

To accomplish these management activities, there will be 11 miles of temporary road construction on "pre-disturbed ground" and 3.3 miles of temporary road construction (on ground not classified as "pre-disturbed".

Location
The Junction Project area includes 17,556 acres on the Paulina Ranger District, about 15 air miles southwest of the city of Bend, Oregon and less than 5 miles west of the community of Sunriver. The Junction area consists of primarily Lodgepole pine forests.

Appellant's Interests
LOWD/BMBP have a specific interest in this decision, which has been expressed through participation throughout the NEPA process. LOWD/BMBP members visit much of the affected area for hiking; camping; backpacking; relaxing; bird, wildlife, and wildflower viewing; mushroom harvesting; photography; gatherings; hunting; bike riding; leading educational hikes; and more. The value of the activities engaged in by LOWD/BMBP members and staff will be damaged by the implementation of this project.

LOWD/BMBP is a non-profit organization that works to protect Eastern Oregon National Forests. Staff, members, volunteers, supporters, and board members of LOWD/BMBP live in the communities surrounding the DNF and use and enjoy the Forest extensively for recreation, drinking water, hunting, fishing, general aesthetic enjoyment, family gatherings, viewing flora and fauna, gathering forest products, and other purposes.

Request for meeting
LOWD/BMBP requests a meeting to discuss matters in this objection before the DNF makes a final decision on the Junction Project.

Specific issues addressed in this objection
Inconsistency with stated "purpose and need" of the project; lack of enforcement of mitigation measures; failure to consider scientific controversy; failure to adequately analyze cumulative impacts; failure to provide adequate range of alternatives; failure to prepare an EIS; violations of NFMA and the Forest Plan including: outdated Forest Plan; violations of Eastside screens; violations of PACFISH/INFISH; failure to provide for population viability (including wildlife), effects to soil, effects of road construction and reopening old roads; and more, as specifically mentioned below.

LOWD/BMBP objects to the Junction Fuels and Vegetation Management Project for the following reasons:

I. The Junction Project violates the National Environmental Policy Act

The Junction Fuels and Vegetation Management Project violates the National Environmental Policy Act in the following ways: inconsistencies with the "purpose and need" of the project, inadequate enforcement of mitigation measures, failure to consider scientific controversy, and inadequate cumulative impacts analysis, failure to provide an adequate range of alternatives, and failure to prepare an EIS.

Inconsistency with the stated purpose and need of the project

The Junction Project is not consistent with the expressed purpose and need goals as they relate to forest health. The Junction Project included the following stated forest health needs:

> • Reduce stocking in ponderosa pine stands to increase vigor and resilience to insects, disease, and wildfire;
> • Address forest health and fuel issues in Lodgepole pine stands by releasing the understory to grow healthy without infection of dwarf mistletoe from overstory and to increase vigor.
> • Reduce hazardous fuels to protect values at risk to wildfire such as scenic corridors, critical transportation routes, public safety, Old Growth management Areas, and unique plant and wildlife habitats

The primary stressors to the area are road densities, soil compaction, and cumulative impacts due to previous land management. Logging address forest health does not align with or address the primary threats to forest health in this area, and in fact exacerbates soil compaction, habitat degradation, and negative cumulative impacts from land management projects. Thus more logging, roading, and heavy equipment use will not necessarily increase the vigor and resilience of Ponderosa Pine stands to insects, disease, and wildfire, as logging, roading, and heavy equipment can all decrease the vigor and thus, the resilience of stands, as evidenced by the current state of these over-logged stands. Releasing the understory of Lodgepole stands can be done without such heavy logging as overstory and seed tree removal, which removes the largest, most fire resistant structure in these stands, which is needed by primary cavity excavators and for elk and deer satisfactory cover. Appropriateness of prescribed burning in Lodgepole pine forest, which is naturally subject to infrequent, stand replacement fire is not replicated by prescribed burning. The FS fails to analyze or explain how mowing is effective or mimics any natural processes.

Stating that logging of overstory trees will control or reduce dwarf mistletoe infection is not scientifically accurate, as logging may increase mistletoe outbreaks. The Junction EA states that it needs to "address forest health and fuel issues in lodgepole pine stands by releasing the understory to grow healthy without infection of dwarf mistletoe from

overstory and to increase vigor." In both Lodgepole and Lodgepole/Ponderosa pine stands, the EA also states that "an overstory removal harvest would be used to allow for the continued development and management of the understory". However, the use of overstory and "seed tree" (clearcut) logging in order to control mistletoe infection is not ecologically justifiable. Mistletoe is endemic in these stands and will not be effectively reduced or controlled by logging. Lodgepole stands will re-grow densely after "seed tree" and overstory logging- but likely grow back more vulnerable to disease and insects due to degraded soil conditions. Dense Lodgepole succession should proceed naturally.

Trees with mistletoe contribute to any existing wildlife habitat and mature/old growth structure within these stands. The proposed action prescribes removal of trees infected with mistletoe, particularly overstory trees, while failing to recognize that mistletoe-infected trees provide a variety of ecological benefits such as food, cover, and nesting platforms for birds and other small animals. Mistletoe and bark beetles are native to these forests, were historically common disturbances that were influential to vegetation conditions, and they provide essential forage and habitat for wildlife. In addition, mistletoe and bark beetles are not effectively controlled through logging. The EA justifies killing and/or removing mistletoe-infected trees by asserting that they threaten forest health. However, the overall ecosystem- particularly at a landscape scale- has evolved with and needs insects, disease, parasites, and other forest "pests"- including mistletoe. Healthy forests include native diseases, and dying and dead trees. Mistletoe is a natural part of the ecosystem and provides ecological benefits such as nesting and wildlife habitat, food, and cover. The perceived need to remove or reduce mistletoe only responds to silvicultural planation desires, not to wildlife species, needs for mistletoe and legal oblications to protect the viability of these species. Examples of such species include: Johnson's Hairstreak butterfly, Northern goshawk, and Blue grouse. Seed tree logging of Lodgepole will further damage soils, degrade wildlife habitat, and have other negative impacts, but will not ultimately 'restore' the forest. If landscape vegetation objectives are to be met, then forest succession must be allowed to proceed naturally- and should include mistletoe, beetles, and wildfire. In addition, logging in these areas may exacerbate, rather than reduce mistletoe and other insect or disease outbreaks.

The EA states that "where stand growth and vigor have declined and stand structure and integrity are being affected by increasing mortality, a shelterwood or seed-tree harvest will be used". However, the "seed tree" or "shelterwood" logging of Lodgepole pine stands do not align with the stated ecological needs to: "address forest health and fuel issues in lodgepole pine stands by releasing the understory to grow healthy without infection of dwarf mistletoe from overstory and to increase vigor" or to "reduce hazardous fuels to protect values at risk to wildfire such as scenic corridors, critical transportation routes, public safety, Old Growth management Areas, and unique plant and wildlife habitats". None of the ecological rationales stated above apply to "seed tree" or "shelterwood" logging. Shelterwood is also virtual clearcutting, leaving only small, isolated clumps of usually small trees.

Lodgepole is a primary succession species. In areas that support and/or favor Lodgepole, it is the first tree species to grow in after a disturbance, and it naturally grows

in densely. “Seed tree” (clearcut) and overstory logging of Lodgepole will result in future stands of dense Lodgepole, as has been shown from previous clearcutting within this project area.

Resolution

LOWD/BMBP has commented on its objection to the DNF’s inconsistency of the Junction Project with the stated “purpose and need”. See, for example, multiple comments in the Response to Comments section of the final Junction EA on pages 307, 308, 329 and all other relevant comments as otherwise listed. See also relevant comments in BMBP’s comments on the Junction EA on pages 1 - 4:

We request that “seed tree” (clearcut) and overstory logging be dropped from the project. We also request that the FS increase basal area in Ponderosa pine from 50 feet to 70 square feet basal area across each unit should be much higher, use variable density at least 100 square feet in areas with large trees.

Inadequate Enforcement of Mitigation Measures

NEPA regulations require the Forest Service to “[s]tate whether all practicable means to avoid or minimize environmental harm from the alternative selected have been adopted, and if not, why they were not. A monitoring and enforcement program shall be adopted and summarized where applicable for any mitigation.” 40 CFR 1505.2(c). the DNF is required to **“**identify those mitigation measures that the agency is adopting and committing to implement, including any monitoring and enforcement program applicable to such mitigation commitments. “ *Final Guidance for Federal Departments and Agencies on the Appropriate Use of Mitigation and Monitoring and Clarifying the Appropriate Use of Mitigated Findings of No Significant Impact*, 76 Fed Reg 3843 (January 21, 2011). *See also* 40 CFR 1505.2(c) and 1502.16(h).

The DNF has created Project Design Criteria (PDCs) and Best Management Practices (BMPs) that are intended to minimize environmental harm for the Action Alternatives, but there is no mention of any enforcement. In fact, the Junction Project absolutely relies on the PDCs and BMPs to keep environmental impacts within the bounds of the law. The DNF must also plan to enforce the implementation of these PDCs and BMPs so the Junction Project meets legal requirements.

In order to move forward with the proposed action, the EA relies heavily on PDCs and BMPs in order to rationalize determinations of “no significant impact”, “no impact”, and claim that there will not be a significant trend towards listing or to loss of species viability. However, many of the BMPs and PDCs used to make these determinations have little or no effectiveness data associated with them. In addition, many of them are highly flexible, subject to change, formatted as suggestions, subject to human error and misinterpretation, and may not be implemented as planned or at all. There do not appear to be clear timelines for remediation.

One example of the FS's reliance on PDCs is that PDCs are meant to prevent even further degradation of soils than the Forest Plan allows and include technical procedures that require absolute vigilance on the part of timber harvesters. If timber harvesters are not adhering to the measures in every way, there is very little room for error, and detrimental soil conditions would likely exceed Forest Plan standards without any guarantee of rehabilitation. While forest administrators may be responsible for monitoring these standards, in all reality, it is the commercial harvesters' responsibility to make sure these measures are followed.

We are concerned that mitigation measures used to justify planned violations of detrimental soil impacts may be ineffective, or may not take place due to lack of clear timeline or other issues.

Resolution

LOWD/BMBP has commented on its objection to the DNF's lack of enforcement of mitigation measures in the Junction Project. See, for example, comments in the Response to Comments section of the final Junction EA on page 332, and all other relevant comments as otherwise listed. Also see relevant comments in Blue Mountains Biodiversity Project's comments on the Junction EA, including on page 23.

In order for the Junction Project to comply with NEPA, LOWD/BMBP respectfully requests that no "temporary" road construction take place, that no logging should occur in areas that may affect potential Oregon spotted frog habitat, and that a clear timeline with deadlines and funding sources are included in road remediation plans.

Failure to consider scientific controversy

The EA does not consider scientific controversy surrounding thinning and other logging as ecologically helpful or succeeding in reducing fire risk. One of the unintended negative consequences of thinning, or logging for intended improvement of forest health and vigor, is that it may actually impede recovery, including recovery through natural processes. In addition, thinning for fuels reduction purposes does not always work as intended. Examples of some recent scientific findings which illustrate these points include:

> "Over 40 years, habitat loss would be far greater than with no thinning because, under a "best case" scenario, thinning reduced 3.4 and 6.0 times more dense, late-successional forest than it prevented from burning in high-severity *fire* in the Klamath and dry Cascades, respectively" (Odion et al. 2014).
>
> "Our results suggest that wildfire burning under extreme weather conditions, as is often the case with *fires* that escape initial attack, ***can produce large areas of high-severity*** *fire* ***even in fuels-reduced forests with restored*** *fire* ***regimes***" (Lydersen et al. 2014).
>
> "The rate of high-severity *fire* has been lower since 1984 than the estimated historical rate. ***Responses of*** *fire* ***behaviour to climate change and*** *fire* ***suppression may be more complex than assumed***...Management could

shift from a focus on reducing extent or severity of *fire* in wildlands to protecting human communities from *fire*" (Hanson and Odion 2014).

Aggressive vegetative manipulation or attempts to "improve health and vigor" can have unintended and damaging consequences, included negative cumulative effects. Rieman et al. (2001), in analyzing the most aggressive restoration alternative for the Interior Columbia Basin Ecosystem Management Project, determined that the ***habitat benefits provided during the first 10 years of implementation for restoration of forest vegetation under the more aggressive alternative were lower than the benefits achieved through less aggressive restoration schedules.*** The Junction project's prescriptions include heavy logging, thinning to below desired stocking levels, and silvicultural activities that threaten other resources, such as soil integrity and wildlife habitat. The Junction EA needs to take into account ICBEMP and other science showing that that sometimes these projects are ineffective and have harmful unintended consequences, and that the cumulative impacts of these practices can negatively impact forest health at a broad scale.

In addition, studies have shown that trees in eastside forests are filled with clumps, gaps, patches, and areas of natural density- conditions that will not be created by silvicultural prescriptions in the majority of the Junction project.

Resolution

LOWD/BMBP has commented on its objection to the DNF's failure to consider scientific controversy in Junction Project. See, for example, multiple comments in the Response to Comments section of the final Junction EA on pages 312 and 313 and all other relevant comments as otherwise listed. See also Blue Mountains Biodiversity Project's comments on the Junction EA on pages 3, 4, 18, 24, and 25.

An FEIS needs to be prepared to fully discuss and consider scientific and public controversy and use it for creating a broader range of alternatives.

Failure to adequately analyze cumulative impacts

The Junction Project FEIS does not adequately analyze cumulative impacts of road density, including new temporary road construction of the project. The EA claims that road density would be reduced. However, there would be only 2.62 miles of system road decommissioned and .57 miles closed vs. 14.3 miles of "temporary" roads with lasting impact would built. The DNF states that temporary roads would have lasting impacts beyond the time of decommissioning, but fails to analyze the cumulative impacts of these roads or account for road density impacts beyond the timeframe of project completion. Cumulative impacts also need to be considered in relation to other potential project impacts such as heavy logging on a broad scale, and include possible cumulative impacts from the combination of roads and other management projects.

Frissel et al. (2014) in their Aquatic Conservation Strategy report, suggest that new road construction- including temporary roads- should be prohibited unless longer and more damaging segments are decommissioned. They also suggest that temporary roads and landing should be considered in road density levels for several decades after decommissioning, and that forestry and development projects should meet a target of road density reductions. They also reported that Bull trout populations suffered in watersheds where road densities exceeded 0.6 miles per square mile- they recommend watershed densities of 0.5 miles per square mile; for other salmon and steelhead they recommend 1 mile per square mile. Davis et al. (2010) in a report for the Native Fish Society, included information about road density on the Deschutes National Forest: Oregon Wild did an assessment of roads in the forests and concluded that there are approx 9,784 miles of roads, or about 3.9 miles per square mile of road. All existing road prisms were counted, regardless of maintenance level.

LOWD/BMBP objects to the construction of any new roads, permanent or temporary and to extensive road reconstruction, especially if this involves re-opening closed or overgrown roads. The impacts of open, closed, and temporary roads are all similar, because all are accessible to off-road vehicles and other human activities, and encourage the spread of invasive species. Closed roads are often ineffectually closed or opened at a later date for management activities. Thus, a closed road or a temporary road really is not "closed" or "temporary." Just because a road has not been added to the official road system does not mean that that road has no further impacts. In fact, the road most certainly will have impacts to wildlife, soil, and quality of recreational opportunities for decades or longer. More road construction and opening of closed roads means more disturbance of road sensitive species such as elk, wolverine, lynx, and gray wolves. Roads also allow easier entry into the forest for fur trappers looking for lynx, wolverines, and wolves.

Furthermore, constructing or reconstructing new roads creates an even greater backlog of roads that will require maintenance in the future. Building, rebuilding, and reopening roads are simply one of the biggest impacts to the forest. Roads break up habitat connectivity, allow for disturbance and harassment of wildlife, add sediment to streams, compact soil, impact the function of the watershed, and impair recreation, among other negative impacts.

The EA does not make clear what "existing disturbed ground" is, and whether or not it contains existing road prisms. The EA claims that road densities would be reduced. However, creating 14.3 miles of temporary road and then closing and decommissioning a total of 3.19 miles of roads does not equal a true road density reduction. The EA claims that temporary roads would be returned to their original condition by remediation strategies. However, in reality, roads cannot be instantly returned to pre-project conditions. Furthermore, the FS can't have it both ways: the Junction EA claims that roads would be remediated and returned to original condition, and so does not analyze lasting, long-term impacts. However, the EA also claims that roads being built on "previously disturbed ground" (which likely refers primarily to old road beds) does not count as new road construction. It is a logical fallacy to claim that in some situations,

remediation means a return to original conditions, and in other situations, it means that old road beds are not considered new temporary road construction and are not adequately considered in terms of cumulative impacts.

Data gaps exist in relation to how roads affect aquatic and other resources. The FS should include what that road density is in its cumulative impacts analysis, and analyze the cumulative impacts of the Junction project in relation to these road densities. Cumulative impacts on fish, soils, and wildlife should include *existing* road densities. Analyses should disclose road densities outside of wilderness and roadless areas, and should also look at road densities of all existing intact road prisms. The EIS for the USFS EXF project states that while OHV travel routes are not calculated into open road density, the effects can be similar (USFS 2009 p 134).

The Upper Deschutes River Subbasin Assessment (2003) found that:

> "[F]orested portions of the Upper Deschutes Subbasin that have not been designated as wilderness have a high forest road density".
>
> "[T]here has been no specific analysis of forest service roads in the Upper Deschutes Subbasin as a contributor of sediment into the Deschutes River system (Rife 2003); however, roads have been associated with an assortment of negative effects on aquatic resources including disruption of basin hydrology and increased chronic and acute sedimentation. Erosion and sediment analyses in other areas have revealed the impacts of roads on watershed resources, especially in riparian areas (Bescheta et. al 1995)."
>
> "An estimated 90% of sedimentation from logging activity comes from road building. Sedimentation, erosion, and run-off all increase in areas that are logged when compared to unlogged." "Under no circumstances should new roads be introduced into sensitive areas…"
>
> "The large body of existing information documenting the erosion impacts of forest roads, particularly new road construction, on the sedimentation of spawning habitat must be applied to future fire suppression, fire prevention treatments, and thinning or logging in the Upper Deschutes Subbasin. An evaluation of the impact of the existing forest road systems on aquatic resources in the Upper Deschutes Subbasin is needed."

Elk and deer, Forest Plan cover requirements

The effects of *existing* road density should be considered for elk and deer, as well as for other wildlife sensitive to disturbances from roads. The following table below (USFS 2005) shows that deer and elk are negatively affected by closed roads (roads not open to traffic but available for ATV use- as those in the Junction area are). While negative effects from high-traffic open roads are more pronounced, closed and open road densities have significant and pronounced effects, and need to be disclosed and included in the analysis for this project.

Table 76. Zone of Influence applied to each side of road for deer and elk (Gaines et al. 2003).

Trail or Road Type and Status	Zone of Influence*
Motorized trails	300 meters
Closed road (no vehicle traffic but open to ATVs	300 meters
Low Traffic (0-1 vehicles/12 hours)	900 meters
Moderate Traffic (2-4 vehicles/12 hours)	1000 meters
High Traffic (>4 vehicles/12 hours)	1300 meters

*Zone of Influence – similar definition as road effect distance.

Resolution

LOWD/BMBP has commented on its objection to the DNF's failure to adequately consider cumulative impacts in the Junction Project. See, for example, multiple comments on pages 317 and 321 of the Response to Comments section of the final Junction EA, and all other relevant comments as otherwise listed. See also BMBP's revelvant comments on the Junction EA, pages: 8, 19, and 20.

LOWD/BMBP respectfully requests that the DNF drop the construction and reconstruction of all new roads, including so-called "temporary" roads and reconstruction of roads currently closed and not open to administrative use or overgrown.

LOWD/BMBP respectfully requests that the DNF consider all cumulative road density related impacts of the Junction Project within the project area as well as in conjunction with all projects district-wide and forest-wide. Cumulative impacts of roads on deer, elk, and other MIS species should also be analyzed.

Failure to provide an adequate range of alternatives

The EA included an inadequate range of alternatives. The EA should have included at least one alternative that proposed only commercial thinning with variable density. Overstory removal and seed tree harvest (clearcutting) do not reflect improved forest practices or new science, and are very ecologically damaging. Alternatives that include less extreme options than simply no action (alt 1) or thousands of acres of seed tree harvest and overstory removal (alternatives 2 and 3) need to be considered. At least one alternative that analyzes a more reasonable range of activities and includes less ecologically damaging commercial logging and management activities should have been included.

Resolution

LOWD/BMBP has commented on its objection to the DNF's inadequate range of alternatives in the Junction Project. See, for example, multiple comments in the Response to Comments section of the final Junction EA on pages 323 and 324, and all other relevant comments as otherwise listed. See also BMBP's comments on the Junction EA on page 24.

We request an FEIS which provides such an alternative, or drop overstory removal and seed tree logging. We also request that the FS raise the average basal area of Ponderosa pine thinning to at least 70 square feet of basal area/acre, with variable density.

Failure to prepare an EIS

Given the ecologically damaging nature of overstory removal and seed tree harvest, and the scientific and public controversy surrounding these issues, an EIS needs to be used for this project. The finding of no significant environmental impact to these resources from a 9,864 acre logging project is arbitrary and capricious, and lacks professional integrity. The large scale of the project alone, with over 9,000 acres of commercial logging, should warrant an EIS. Also, the use of clearcutting ("initial regeneration" or "seed tree harvest" as the FS puts it) is controversial to the public, as well as scientifically controversial. In addition, an EIS is needed in order to consider chronic issues with cumulative effects, including from high road densities. An EIS is the appropriate means of analysis of environmental impacts for this project.

Resolution

LOWD/BMBP has commented on its objection to the DNF's failure to prepare an EIS for the Junction Project. See, for example, multiple comments in the Response to Comments section of the final Junction EA on pages 323 and 324, and all other relevant comments as otherwise listed. See also BMBP's comments on the Junction EA, pages 6, 16, 20, and 24.

We request that the USFS prepare an EIS for the Junction project.

II. The Junction Project violates the National Forest Management Act

The Junction Fuels and Vegetation Management Project violates the National Forest Management Act (NMFA) in the following ways: an outdated Forest Plan; violation of the Eastside Screens; violation of PACFISH/INFISH; and failure to maintain population viability.

Outdated Forest Plan

NFMA requires that an agency revise its Forest Plan every 15 years. *16 USC 1604(f)(5).* The Deschutes Forest Plan was approved in 1990. It is now 2014. The DNF should have had at least one Forest Plan revision since then. All forest management activities undertaken by the Forest Service must comply with a Forest Plan, which in turn must comply with NFMA. Because NFMA itself requires that a Forest Plan be revised every 15 years, a 24-year-old Forest Plan is invalid under NFMA. A project approved under an invalid Forest Plan is itself invalid. The DNF must revise its Forest Plan before it can plan site-specific projects on the DNF. For this reason, the Junction Project must

not go forward until the DNF has a revised and updated Forest Plan. When the DNF has a revised Forest Plan, the Junction Project must then be planned under the directives of that revised Forest Plan. The outdated Forest Plan may not provide for adequate habitat or protections for wildlife, soils, fish, and ecological functions. Land management actions moving forward without a current Forest Plan, and without using best available current science or disclosing scientific controversy (both of which are problems within this EA) are in violation of NFMA. The legislature has exempted agencies from this Forest Plan revision requirement, but only when an agency is "acting expeditiously and in good faith" to revise a Forest Plan. See 123 Stat 746, Sec. 410.

The DNF has not stated, publicly, any intention to undertake a revision of its Forest Plan. It seems that, instead of focusing resources and planning efforts on its Forest Plan revision, the DNF is using resources to create behemoth commercial logging projects, like the EXF sale, the West Bend sale, and the Junction Project. Because it's clear that the DNF has resources to put towards aggressive timber sale planning but is not using those resources for an expeditious Forest Plan revision, the delay in revising the Forest Plan is not in good faith.

Resolution

LOWD/BMBP has commented on its objection to the DNF's outdated Forest Plan. See BMBP's comments on the Junction EA, page 24.

We request that the FS defer this project until after a new Forest Plan for the Deschutes NF has been approved and has been though the entire NEPA public process.

Violation of Eastside Screens:

Overstory and regeneration logging do not retain LOS components. There is a deficiency of mature and old forests are across the landscape. Overstory removal and "seed tree" (clearcut) logging will not retain the more mature trees in these stands, and will not facilitate progression of these stands towards late successional or old growth conditions. Hence, the proposed action does not meet the requirements of the Eastside Screens. In fact, on page 174 of the Junction EA, the FS states that the Junction planning area, ***under the no action alternative, "would begin transitioning to later seral stages within the next 20 years***, becoming unsuitable habitat" for sharp-shinned hawks. And this transition, under the no action alternative, would be free to taxpayers and would not include the myriad of negative impacts associated with the action alternative.

Rather than creating ***"landscape-level vegetation conditions that reflect historic vegetation and disturbance patterns and scales",*** this project will further alter vegetation away from historic conditions by simplifying canopy structure, reducing vegetative diversity, and impacting soils. In addition, the project will exacerbate disruptions of historic vegetative and disturbance patterns by attempting to remove native diseases, insects, and wildfire. "Seed tree" (clearcut) logging (2,322 acres) would leave approximately 10 overstory trees per acre and remove "undesirable" trees. The removal

of the majority of trees in these stands will leave sparse and even-aged trees behind, resulting in a simplified canopy structure. Removal of "undesirable" trees will reduce potential wildlife habitat and may reduce tree species diversity. Overstory removal will simplify canopy structure on 4,235 acres in the proposed action. The overstory prescription states that in mixed Ponderosa and Lodgepole stands, Ponderosa pine will be favored for retention- also reducing tree species diversity.

The Eastside screens require that there be no even aged management on group selection in stands not currently meeting LOS located within or surrounded by blocks of LOS. Eastside screens require habitat needs to be met on 100% population potential for Primary Cavity Excavators.

Resolution

LOWD/BMBP has commented on its objection to the DNF's violation of the Eastside Screens in the Junction Project. See, for example, comments in the Response to Comments section of the final Junction EA on page 309, and all other relevant comments as otherwise listed. See also BMBP's comments on the Junction EA, pages 3, and 32.

We request that the FS drop all overstory and "seed tree" logging in order to facilitate the progression of these stands to LOS or old growth conditions.

Violation of PACFISH/INFISH standards

The response to comments in the Junction EA noted that there would be a 100' machinery buffer from Fall River, with a 50' buffer for the hatchery canal, and that thinning would be limited to trees >60 feet tall and 30 feet or more from the River. This river is a Class 1 river, and should have a 300' buffer. Even though Bull trout are not present, the river is potential habitat and is designated by ODEQ as needing to meet Bull trout spawning and rearing temperature standards. The river and canal should be managed according to PACFISH/INFISH standards, to protect water quality standards set by ODEQ and, to provide for potential Bull trout habitat. Even if anadromous fish are not present and thus are not considered in the buffer requirements, a 150 foot buffer should be present. It is not clear from the science that adequate protection from increases in temperature or fine sediment inputs would be provided by the narrow buffers suggested in the EA.

The Junction EA response to comments mentions that in July of 2013, commercial logging along the Upper Deschutes River was monitored for potential impacts to riparian and water quality. Heavy equipment was restricted to 60 feet from riparian vegetation and was concluded to be effective. However, a 60 foot riparian buffer from the edge of the riparian vegetation was bigger than the proposed 50 foot buffer on the hatchery canal. In addition, this monitoring consisted of a sample size of one, and therefore it is inappropriate to extrapolate these results to other areas or situations.

Resolution

LOWD/BMBP has commented on its objection to the DNF's violation of PACFISH/INFISH in the Junction Project. See, for example, comments in the Response to Comments section of the final Junction EA on page 318, 319, and 320, all other relevant comments as otherwise listed. See also BMBP's comments on the Junction EA, page 16.

We request that the FS provide adequate buffers that comply with PACFISH/INFISH requirements and standards. Full INFISH/PACFISH buffers from logging and heavy equipment use should be included for all waterways, including Fall River and the hatchery canal.

Population Viability

NFMA also requires an agency to "provide for diversity of plant and animal communities based on the suitability and capability of the specific land area." 16 U.S.C.S. § 1604(g)(3)(B). The Forest Service has created regulations to carry out this mandate at 36 CFR 219.9 (2012). Under those regulations, the agency must ensure the ecological integrity of the plan area. 36 CFR 219.9(a) Furthermore, the agency "shall determine whether or not the plan components required by paragraph (a) of this section provide the ecological conditions necessary to: contribute to the recovery of federally listed threatened and endangered species, conserve proposed and candidate species, and maintain a viable population of each species of conservation concern within the plan area. 36 CFFR 219.9(b)(1).

LOWD/BMBP is concerned about the viability of the populations of Black-backed woodpeckers, Oregon Spotted Frogs, and all other Threatened, Endangered, and Sensitive species that exist in the area, and all Management Indicator Species. It is unclear if the viability of all MIS would be protected. The Junction Project would occur in an intensively managed area with a lot of regular human disturbance. Further heavy logging of this habitat will compound the stress experienced by these species. The DNF has not shown that it will comply with the above regulation to "maintain a viable population of each species of conservation concern."

The Junction Project reduces high canopy closure. The Junction Project final EA planning documents fail to discuss this as a crucial concern. Because there are no population studies for Black-backed woodpeckers, or other woodpeckers such as Pileated woodpeckers, on the DNF, the DNF does not know how much habitat Black-backed or Pileated woodpeckers actually require in the project area and what effects management activities actually have on them. Goshawk also need denser forests with high canopy closure.

LOWD/BMBP is very concerned with the Junction Project's impacts on the Columbia Spotted Frog and Black-backed woodpeckers. We are concerned that a large enough population of Oregon spotted frog will not survive the short-term impacts of this

project to allow these species to experience the projected long-term benefits. In addition, the Junction EA response to comments notes that the effectiveness analysis assumes implementation of BMPs and PDCs. However, given that BMPs and PDCs are flexible, subjective, and lack adequate monitoring or enforcement, it is not clear that they will be effective and therefore it is not clear that they will adequately protect habitats or species viability.

The Junction Project's environmental impacts on the above-mentioned species are immediate and long-term. These species are currently threatened with similar projects across the region, which cumulatively eliminate their habitat. In the absence of known population numbers, reproductive success, and viability thresholds for these species on the Forest and in the project area, there is a significant threat to the species' viability.

It is unclear if the viability of all MIS species within the project area has been monitored or protected as required by NFMA. While the EA mentioned that a couple of the MIS species have been surveyed for (for example Goshawk) it is not clear that there have been surveys or scientific protocols for other species- including Black-backed woodpeckers and Oregon spotted frogs- have been surveyed for or that these species have been adequately monitored for effects from land management practices and viability. Because of lack of data and the negative effects of silivicultural practices to many of these species, this project does not protect the viability of MIS species.

Habitat as a surrogate for population data, which the FS appears to use multiple times in the Junction EA, is a risky and unacceptable strategy. The Lewis and Clark Environmental Law Summaries (2006) include these summaries: "Idaho Sporting Cong. v. Rittenhouse, 305 F.3d 957, 972 (9th Cir. 2002) (concluding reliance on habitat existence arbitrary and capricious where forest monitoring report indicated that, because of various invalid assumptions, "the Forest Service's methodology does not reasonably ensure viable populations of the species at issue"), *and* Lands Council v. Powell, 395 F.3d 1019, 1036 (9th Cir. 2005) ("The record here shows that the proffered data is about fifteen years old, with inaccurate canopy closure estimates, and insufficient data on snags"), *and Earth Island Institute*, 442 F.3d 1147, 1175-76 (9th Cir. 2006) (***rejecting use of habitat monitoring where forest plan required population monitoring and where there was no indication USFS consulted current studies or identified methodology in determining suitable habitat***)."

Many wildlife species depend on dead wood. The EA's HRV analysis for snag densities "was based on existing conditions for snag densities and not the reference conditions" (Junction EA pg 124). It would be much more appropriate to base a HRV analysis on reference conditions. Using present conditions rather than reference conditions means that underlying model assumptions are fundamentally flawed and highly suspect. Present vegetation conditions, according to the FS, are drastically altered from historic conditions- and so it makes no sense to include present conditions rather than reference conditions representative of more natural and historic snag densities in order to inform the model assumptions. While reference conditions may be hard to find in

the Deschutes, they are not entirely non-existent. Models should use as close-to-reference conditions as possible.

The EA failed to adequately consider the effect of canopy removal and dense forest structure and loss of snags and of complex forest structure on numerous species within the project area, including MIS species such as black-backed woodpeckers and deer and elk cover.

Black-backed woodpecker:

Why did the FS select white-headed woodpeckers to manage for- even though the Lodgepole pine habitat that already exists in this project area is more suited to black-backed woodpeckers? The DEIS for Deschutes National Forest, Ochoco National Forest, and Crooked River National Grassland (2005) states: "Wisdom et al. (2000) describes source habitats for black-backed woodpeckers as a year round resident that occurs in various forest types. Across its range it is most abundant in recently burned forests, but in Oregon, bark-beetle killed forests are frequently occupied. Marshall et al. (2003 pp. 368-370) reports for the black-backed woodpecker the "center of abundance" in Oregon is the "lodgepole pine forest east of the Cascade crest between Bend and Klamath Falls". Endemic levels of mountain pine beetles, common in lodgeple pine (10" + and 170 tpa) provide a constant food source" The Travel Plan goes on to say that in a study conducted on the Deschutes National Forest, Goggans et al. (1989) suggested management for black-backed and three-toed woodpeckers is tied to the maintenance of decay and disease. They found these two species of woodpeckers used stands with a mean diameter of 8"dbh for nesting with a mean nest tree diameter of 11"dbh suggesting selection for single-storied mature/overmature stands. All nests in the study were in lodgepole pine stands and 93% of foraging took place in lodgepole pine forests. Goggans found mountain pine beetles had infested 81% of the trees used for foraging. Recent dead trees were used most often (68%) for foraging. Therefore it is clear that Black-backed woodpeckers require endemic levels of Mountain pine bark beetles, forest structureal decay and disease, a mean dbh of 8" for nesting with a mean nest tree diameter of 11" dbh, mature/"over mature" Lodgepole pine stands, and recent dead trees, all of which would be removed over a large area by proposing heavy logging (and virtual clearcutting) of Lodgepole pine.

Resolution

LOWD/BMBP has commented on its objection to the DNF's failure to provide for viability of MIS species in the Junction Project. See, for example, comments in the Response to Comments section of the final Junction EA on page 314, 315, and 329, all other relevant comments as otherwise listed.

We request that the FS retain more future snags and downed wood and more canopy closure and complex forest structure by dropping overstory and "seed tree" logging and increasing basal area in commercially thinned Ponderosa pine stands to an average of 70 square feet basal area per acre, with variable density. Non-commercial thinning could be

used to develop suitable mature Lodgepole Black-backed habitat in young Lodgepole stands. There should be no virtual clearcutting (seed tree or shelterwood) in Lodgepole stands.

Oregon spotted frog:

Oregon spotted frogs may occur in the project area where it overlaps with the Fall River RHCA. The FS has failed to analyze possible impacts to Oregon spotted frog in the project area. The Junction EA claims that Oregon spotted frogs are unlikely to be present in the project area, and have never been found in Fall Creek. It is unclear what, if any, surveys and survey protocols for Oregon spotted frogs have been in place for Fall River and the meadow. The Junction EA goes on to say that Oregon spotted frogs are unlikely to be found in Fall River because the river is too cold:

> Other than approximately 0.2 miles of Fall River, the project area does not have any streams, wetlands or other riparian areas, but there is a 2-acre meadow. Fall River is within the Upper Deschutes Basin and flows into the Deschutes River approximately 2 ¾ miles downstream. There are known Oregon spotted frogs in the Deschutes River, but there are no known records of spotted frogs occurring in Fall River. Fall River would not likely provide suitable habitat because this river is too cold and does not warm substantially from February to May. Field reconnaissance also did not reveal any frogs in the 2-acre meadow. Additionally, this area is classified as a Recreational River, therefore human disturbance is frequent, making it unlikely to have occupancy.

However, the USFWS includes the Fall River watershed as historical and extant habitat (USFWS 2014). The USFWS defines habitat within the Upper Deschutes River to include riverine wetlands of up to 5,000 feet. The Junction project area where it overlaps with riparian resources in Fall River RHCA is approximately 4,000 feet.

> Upper Deschutes River--Oregon spotted frogs in the Upper Deschutes River sub-basin occur in high-elevation lakes up to 5,000 ft (1,524 m), wetland ponds, and riverine wetlands and oxbows along the Deschutes River.
>
> [[Page 51666]]
>
> There are fewer than 20 known breeding locations within four watersheds (HUC 10) in the sub-basin: Charleton Creek, Browns Creek, Fall River, and North Unit Diversion Dam. Most of the known breeding locations are on the Deschutes National Forest in lakes, ponds, and riverine wetlands that drain to the Crane Prairie and Wickiup Reservoir complex, including the use of the wetland margins of the reservoirs. There are at least five known breeding locations downstream of Wickiup Reservoir in riverine wetlands along the Deschutes River, extending to Bend, Oregon: Dead Slough, La Pine SP, Sunriver, Slough Camp, and the Old Mill casting pond, including Les Schwab Amphitheater (LSA) Marsh. Dilman Meadow drains into the Deschutes River below Wickiup Dam via an unnamed tributary.

The USFWS webpage for information on Oregon spotted frogs states that:

> "[t]he Oregon spotted frog has been lost from at least 78 percent of its former range. Precise historic data is lacking, but this species has been documented in British Columbia, Washington, Oregon, and California. It is believed to have been extirpated (locally extinct but exists elsewhere) from California. It is currently known to occur from extreme southwestern British Columbia, south through the eastern side of the Puget/Willamette Valley Trough and the Columbia River

> Gorge in south-central Washington, to the central Cascades Range and Klamath Valley in Oregon.
> In Oregon, Oregon spotted frogs historically were found in Multnomah, Clackamas, Marion, Linn, Benton, Jackson, Lane, Wasco, Deschutes and Klamath counties. Currently, this species is only known to occur in Wasco, Deschutes, Klamath, Jackson and Lane counties."

Oregon spotted frogs need more available suitable habitat to avoid extinction of the species, not less, based on their sharp decline and extirpations from historic range. Even *if* there are no Oregon spotted frogs found in pre-logging surveys, the logging in the Junction project will still negatively affect potential habitat, and possible impacts to this habitat need to be analyzed. It is always possible that surveys are missing Oregon spotted frogs or that they may disperse and reoccupy historic habitat.

Resolution

LOWD/BMBP has commented on its objection to the DNF's failure to provide for viability of Oregon spotted frog in the Junction Project. See, for example, comments in the Response to Comments section of the final Junction EA on page 317, all other relevant comments as otherwise listed.

We request that the FS retain more future snags and downed wood, and more canopy closure and complex forest structure by dropping overstory and "seed tree" logging. We also request that the FS adhere to PACFISH/INFISH buffers, and that unit 62 be dropped.

Northern Goshawk

Within the Junction project area, several LRMP standards are currently not being met or will not be met due to management actions (for example, >20" snag densities in Ponderosa pine areas, soil condition class, and elk cover). Cumulative impacts to certain species, including, but not limited to Goshawk, may also be significant. Without validation of effectiveness or certainty that many mitigation measures will even take place, many of these species and resources are at risk of significant impacts.

Resolution

LOWD/BMBP has commented on its objection to the DNF's failure to provide for viability of MIS species in the Junction Project. See, for example, comments in the Response to Comments section of the final Junction EA on pages 314 and 328, and all other relevant comments as otherwise listed. See also BMBP's comments on the Junction EA, page 25, 26, and 28.

We request that the FS meet LRMP standards for snags in all forest types, and drop seed tree, shelterwood, and overstory logging in Lodgepole stands to retain sufficient snag density and large snags to meet Black-backed woodpecker and under Primary Cavity Excavator species' habitat need for this forest type.

Violation of Forest Plan Standards

Snags and downed wood:

Snags in clearcuts with no canopy cover will not provide for species' use or viability for species requiring denser canopy closure such as Black-backed woodpecker and Northern Goshawk.

Snag density modeling in the EA produced such wide range of results as to be inconclusive as to whether or not snag densities meet LRMP standards. For example, the worst-case scenario under the FS model for PP/DF forests snags > or = 20" was 20 per 100 acres- far below Forest Plan standards. The best case was 39,940 snags- far above Forest Plan standards. Almost all snag modeling results produced similar ranges for existing current snag conditions. In addition, modeling was not always tiered to LRMP standards, and snag sizes required for a certain forest type under LRMP were not modeled.

The DecAID method is being used as a Forest Plan amendment, even though it is not a management standard and it has not been reviewed and approved via NEPA and NFMA standards. The 9th Circuit recently reiterated that "species viability may be met by estimating and preserving habitat '*only* where *both* the Forest Service's knowledge of what quality and quantity of habitat is necessary to support the species *and* the Forest Service's *method for measuring the existing amount of that habitat are reasonably reliable and accurate*.' *Earth Island Inst. v. U.S. Forest Serv.*, 442 F.3d 1147, 1175-76 (9th Cir. 2006) (quoting *Native Ecosystems Council v. U.S. Forest Serv.*, 428 F.3d 1233, 1250 (9th Cir. 2005) ONRC v. Goodman (Mt Ashland case, 9th Circuit Sept 24, 2007) (emphasis added). The Forest Service cannot provide any assurance that its plans and projects will assure viable populations of native wildlife that depend on dead trees. The Forest Service does not know how many snags are necessary to support viable populations of cavity associated species. The Junction EA also does not know if snag densities are within even the inadequate LRMP guidelines due to the wide variability that was modeled for the Junction EA. The Forest Service has provided no credible link between DecAID tolerance levels, potential population levels, and viable populations. The Forest Service has also failed to reliably quantify existing and projected habitat for snag associated species.

Resolution

LOWD/BMBP has commented on its objection to the DNF's violation of Forest Plan standards (snags, downed wood, soils) in the Junction Project. See, for example, comments in the Response to Comments section of the final Junction EA on pages 314 and 328, and all other relevant comments as otherwise listed. See also BMBP's comments on the Junction EA, page 25, 26, and 28.

We request that the FS meet LRMP standards for snags in all forest types, and drop seed tree, shelterwood, and overstory logging in Lodgepole stands to retain sufficient snag density and large snags to meet Black-backed woodpecker and under Primary Cavity Excavator species' habitat need for this forest type.

Summary of resolutions for NFMA violations

Resolution

LOWD/BMBP has commented on its objection to the DNF's outdated Forest Plan. See BMBP's comments on the Junction EA, page 24.

We request that the FS defer this project until after a new Forest Plan for the Deschutes NF has been approved and has been though the entire NEPA public process.

Resolution

LOWD/BMBP has commented on its objection to the DNF's violation of the Eastside Screens in the Junction Project. See, for example, comments in the Response to Comments section of the final Junction EA on page 309, and all other relevant comments as otherwise listed. See also BMBP's comments on the Junction EA, pages 3, and 32.

We request that the FS drop all overstory and "seed tree" logging in order to facilitate the progression of these stands to LOS or old growth conditions.

Resolution

LOWD/BMBP has commented on its objection to the DNF's violation of PACFISH/INFISH in the Junction Project. See, for example, comments in the Response to Comments section of the final Junction EA on page 318, 319, and 320, all other relevant comments as otherwise listed. See also BMBP's comments on the Junction EA, page 16.

We request that the FS provide adequate buffers that comply with PACFISH/INFISH requirements and standards. Full INFISH/PACFISH buffers from logging and heavy equipment use should be included for all waterways, including Fall River and the hatchery canal.

Resolution

LOWD/BMBP has commented on its objection to the DNF's failure to provide for viability of MIS species in the Junction Project. See, for example, comments in the Response to Comments section of the final Junction EA on pages 314, 315, and 329, all other relevant comments as otherwise listed.

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Resolution

LOWD/BMBP has commented on its objection to the DNF's failure to provide for viability of Oregon spotted frog in the Junction Project. See, for example, comments in the Response to Comments section of the final Junction EA on page 317, all other relevant comments as otherwise listed.

We request that the FS retain more future snags and downed wood, and more canopy closure and complex forest structure by dropping overstory and "seed tree" logging. We also request that the FS adhere to PACFISH/INFISH buffers, and that unit 62 be dropped.

Resolution

LOWD/BMBP has commented on its objection to the DNF's failure to provide for viability of MIS species in the Junction Project. See, for example, comments in the Response to Comments section of the final Junction EA on page 314, all other relevant comments as otherwise listed. See also BMBP's comments on the Junction EA, page 20.

We request that the FS retain more potential Northern goshawk habitat by dropping overstory and "seed tree" logging.

Resolution

LOWD/BMBP has commented on its objection to the DNF's violation of Forest Plan standards (snags, downed wood, soils) in the Junction Project. See, for example, comments in the Response to Comments section of the final Junction EA on pages 314 and 328, and all other relevant comments as otherwise listed. See also BMBP's comments on the Junction EA, page 25, 26, and 28.

We request that the FS meet LRMP standards for snags in all forest types, and drop seed tree, shelterwood, and overstory logging in Lodgepole stands to retain sufficient snag density and large snags to meet Black-backed woodpecker and under Primary Cavity Excavator species' habitat need for this forest type.

Thank you for your consideration of these objections and for the opportunity to participate in the predecisional administrative review process of the Junction Fuels and Vegetation Management Project. We look forward to meeting with you to work on a resolution to our concerns.

Sincerely,

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